

# FROST BROWN TODD LLC

2200 PNC Center  
201 E. Fifth Street  
Cincinnati, Ohio 45202-4182  
(513) 651-6800  
Facsimile (513) 651-6981  
[www.frostbrown todd.com](http://www.frostbrown todd.com)

DOUGLAS R. DENNIS  
[ddennis@fbtlaw.com](mailto:ddennis@fbtlaw.com)  
(513) 651-6727

February 5, 2004

## VIA OVERNIGHT DELIVERY

Robert W. Cinque, Esq.  
Cinque & Cinque, P.C.  
845 Third Avenue  
New York, NY 10022

Re: *The Kroger Co., v. Malease Foods Corp. f/k/a Malese Foods Corp.*

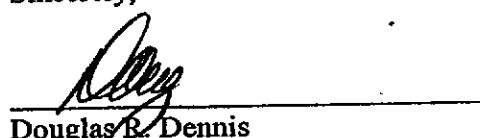
Dear Bob:

Attached please find a supplemental set of documents pertaining to your request for correspondence related to the Kroger purchase of Balkhouse Associates' interest that run from November 7, 1995 to September 25, 2001. Some of these duplicate documents you have already received.

After your complaints about our discovery during the depositions in New York, we had Kroger check specifically for such correspondence, and this is the result of that search. I trust that this still gives you plenty of time to prepare for the depositions you intend to take of the Kroger personnel when you visit in a month.

I will file a Motion today to extend the time to permit those depositions of Kroger personnel the first week of March.

Sincerely,



---

Douglas R. Dennis

DRD  
CinLibrary/1367895.1

# Facsimile Cover Sheet

<b>To:</b>	Jim Hodge
<b>Company:</b>	The Kroger Co.
<b>Phone:</b>	513/762-4214
<b>Fax:</b>	513/762-4012
<b>From:</b>	James D. Price
<b>Company:</b>	Price & Marshall
<b>Phone:</b>	212/967-9550
<b>Fax:</b>	212/695-9645
<b>Re:</b>	Balkhouse Associates
<b>Date:</b>	September 13, 2001
<b>Pages including this cover page:</b>	2

Dear Jim:

Per our conversation, attached is a suggested letter, that you and Ed can edit, that I propose you write to me concerning the purchase of Malese. As soon as I get it, I will fax it to Kadish to see if he is interested.



KSUPP 000180

\*\*\* TX STATUS REPORT \*\*\*

AS OF SEP 14 2001 15:03 PAGE 01

KROGER GO ?

17	DATE	TIME	TO/FROM	MODE	MIN/SEC	PGS	JOB#	STATUS
	09/14	15:02	212 695 9645	EC--S	01'19"	003	181	OK

**The Kroger Co.**

Corporate Real Estate      Phone: (513)762-4214  
1014 Vine Street      FAX: (513)762-4012  
Cincinnati, OH 45202      email: jjones3@kroger.com

## *Facsimile*

To: Price & Marshall, Inc.  
Attn: Jim Price  
Fax #: 212-695-9645  
From: Jennifer Jones  
Date: September 14, 2001  
Re: Balkhouse  
Pages: 3, including this

Jim,

Per or discussion. Will mail original to you today also.

Thanks!

*Jennifer*  
Jennifer Jones



**Corporate Real Estate Department**  
1014 Vine Street  
Cincinnati, Ohio 45202  
513/762-4214 w fax: 513/762-4012

Date: September 13, 2001

Mr. James D. Price  
Managing Director  
Price & Marshall, Inc.  
One Penn Plaza, Suite 5114  
New York, N.Y. 10119

Dear Jim,

I wanted to advise you that on July 24, 2001, The Kroger Co. purchased the three properties owned by the Merrill Lynch sponsored limited partnership, Balkhouse Associates.

Our attorneys have just sent me a draft of a letter to exercise The Kroger Co.'s option under the leases to purchase these properties directly in April 2003. This will trigger the terms of the Two Party Agreement between Malese Foods Corp. and the properties' owner. The Agreement provides that Malese Foods Corp. will receive the discounted cash flow of its master lease rent override for the two years beyond the original Kroger lease term.

I was visiting with my associate, Ed Waldvogel and it would make it simpler, accounting-wise, for us if we purchased Malese Foods Corp. now. Would you use your relationship with Larry Kadesh to determine if he would be interested in having us purchase his position now on a discounted cash flow basis as the Agreement provides, but for no more. April 2003 is only 18 months away.

Let me know if you think we should make him an offer.

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A handwritten signature in black ink, appearing to read "J. E. Hodge".

James E. Hodge

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